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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,417	10/01/2003	Peter Danko	046201-0109	5128

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EXAMINER

CHIMIAK, EMILY ANN

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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01/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/674,417

Applicant(s)

DANKO, PETER

Examiner

Emily Chimiak

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 15 and 31-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-15 and 31-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-12, 14, 43-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The recitation in claim 1 lines 7-10, claim 31 lines 7-9, claim 37 lines 8-10 and claim 43 lines 9-12, "rolling at least the first layer between spaced first and second guides configured to contact the first layer and guide the first layer along a heated guide surface toward the second layer" is not supported by the original disclosure, which does not mention a heated guide in addition to a first and second spaced guides. Please restate.

Furthermore, the combination of limitations "rolling at least the first layer *between* spaced first and second guides" (claim 1 lines 7-8) and "wherein the edges abut each other" (claim 5 lines 1-2) present new matter because the limitation of claim 5, which is illustrated by Figure 12B, requires that neither layer is rolled *between* the guides. Alternatively, rolling the layers between the guides results in overlapping the first layer over the second layer (see Figure 10B).

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 31-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (US 6037033) in view of Nelson (US 4985106) and Glans et al. (US 4606784).

As to claim 37, Hunter teaches a method of closing an open end of a thermoplastic (insulation panel) having a first layer 14 with a first free end and a second layer 16 with a second free end, the first layer being spaced from the second layer by a member 20 extending from the first layer to the second layer (Figures 5 and 17-18), the first and second free ends defining a first open end, and the first and second layers being heat sealable to each other, and the panel having a plurality of interior open regions, wherein the member is thermoplastic (column 5, lines 13-27; column 6, lines 7-12; column 9, lines 18-20) and the method comprises: bringing the first and second free ends together such that a first portion of the first layer bends and abuts a second portion of the second layer and heat sealing the abutting portions to each other to form a closed end extending proximate an edge of the thermoplastic panel and to define a space between the member and the closed end (Figures 5 and 17-18; column 5, lines 23-28). It is unclear as to whether Hunter brings the first and second free ends together by guiding the first free end along a surface so that a first portion of the first layer bends and abuts a second portion of the second layer.

It is known in the thermoplastic insulation panel art to close open ends of the panel by guiding first and second free ends along a surface (i.e. roller arrangement) so that portions of the

first and second layers bend and abut and heat sealing the abutting portions to each other to form a closed end, as taught by Nelson (Figure 1; column 6, line 67 – column 7, line 8; column 8, lines 60-63). Therefore, it would have been obvious to bring the first and second free ends of Hunter together by guiding the first free end along a surface so that a first portion of the first layer bends and abuts a second portion of the second layer because such is known in the art, as taught by Nelson, where this allows for an automated and continuous sealing process. It would have been obvious to place the layers to be sealed between the guide rollers in order to apply pressure to form the seal.

As to claim 31, all the limitations were addressed with respect to claim 37 except the thermoplastic panel being corrugated. Hunter teaches such (Figures 5 and 17-18).

As to claims 32-36 and 38-42, Hunter in view of Nelson teaches such.

4. Claims 1-12, 14 and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter and Nelson in view of Glans et al. (US 4606784).

As to claim 1, all the limitations were addressed in the rejection of claims 31 and 37 except the rib being interconnected with the first layer and rolling at least the first layer along a surface toward the second layer and contacting the first layer with the second layer. Hunter teaches the rib being interconnected with the first and second layers (column 13, lines 59-60; column 14, line 31). Hunter in view of Nelson teaches rolling at least the first layer along a surface toward the second layer and contacting the first layer with the second layer (Nelson at column 6, line 67 – column 7, line 8).

It is unclear whether the roller arrangement includes a first and second guide as well as another heated guide in the method of Hunter as modified by Nelson. However, Glans et al. teaches using several pairs of roller guides with the number of roller guides selected depending on the material worked upon (col. 6 lines 18-35). It would have been obvious to use additional heated roller guides in the method disclosed by Hunter as modified by Nelson in order to

As to claims 2-12, 14, 32-36 and 38-42, Hunter in view of in view of Nelson teach such.

As to claims 43 and 44, all of the limitations have been addressed except for the first guide being configured as a shoe. However, Glans. et al. teaches that it is advantageous in the art of thermoplastic heat sealing of packaging containers include forming roller 14 with a groove therein (first guide being configured as a shoe) in order to in order to perform a secure folding (abstract, col. 5 lines 51-54 and col. 6 lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time of invention to use a shoe-shaped guide roller as taught by Glans et al. in order to achieve a secure seal between the outside layers in the method of Hunter as modified by Nelson.

Response to Arguments

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Chimiak whose telephone number is (571)272-6486. The examiner can normally be reached on Monday-Friday 8:30-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)272-6486. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EE


RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
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